

**IOWA DEPARTMENT OF NATURAL RESOURCES**  
**ADMINISTRATIVE CONSENT ORDER**

**IN THE MATTER OF:**

**Poweshiek Water Association**  
Wastewater facility No. 06-92-001

**Benton County, Iowa**

**ADMINISTRATIVE  
CONSENT ORDER  
NO. 2014-WW-03**

**TO: Chad Coburn**  
**Poweshiek Water Association**  
**125 Industrial Drive**  
**P.O. Box 504**  
**Brooklyn, IA 52211**

**I. SUMMARY**

This administrative consent order (order) is entered into between Poweshiek Water Association (PWA) and the Iowa Department of Natural Resources (Department) for the purpose of resolving PWA's violations of the terms and conditions of its wastewater National Pollution Discharge Elimination System Permit (NPDES permit) and applicable Department rules including general water quality standards. The order assesses an administrative penalty, requires PWA to comply with its NPDES permit and cease all illegal discharges to waters of the state. In the interest of avoiding litigation, the parties have entered into this order and agree to the provisions set forth below.

Any questions regarding this order should be directed to:

**Relating to technical requirements:**

Sue Miller, Environmental Specialist  
IDNR Field Office #1  
990 W Main St. Ste 4  
Manchester, IA 52057  
Ph: (563)927-2640

**Relating to legal requirements:**

Carrie Schoenebaum, Attorney  
Iowa Department of Natural Resources  
Wallace State Office Bldg. 502 E. 9<sup>th</sup>  
Street  
Des Moines, Iowa 50319-0034  
Ph: (515)281-0824

**Payment of penalty to:**

Iowa Department of Natural Resources

**IOWA DEPARTMENT OF NATURAL RESOURCES**  
**ADMINISTRATIVE CONSENT ORDER**  
**Poweshiek Water Association**

Henry A. Wallace Building  
Des Moines, Iowa 50319-0034

**II. JURISDICTION**

The parties hereby agree that this order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part I, and the rules promulgated or permits issued pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

**III. STATEMENT OF FACTS**

1. Watkins, Iowa is an unincorporated community located in Benton County, Iowa. This community consists of approximately 109 residents/58 households and until 2007 it was unsewered. PWA owns and operates the wastewater treatment facility that serves the community of Watkins. PWA owns the property known as Parcel A, NE1/4 NE1/4 Section 27, T82N, R10W. For 911 purposes this property is locally known as 99 26<sup>th</sup> Avenue, Watkins Iowa. This wastewater treatment facility was constructed in 2007 and consists of a gravity flow collection system that flows to two submersible pump lift stations which are located adjacent to the wastewater facility access road which is located in the SW section of Watkins. Wastewater is pumped via force main to a primary septic tank, recirculation tank and a five tank Advantex system. The Advantex system passes effluent through a flow splitter and discharges to either Prairie Creek or is directed back through the recirculation tank to the Advantex system. Ultimately, PWA discharges to Prairie Creek which is a tributary of the Cedar River.

2. On October 6, 2009, NPDES permit No. 0692001 was issued to PWA for the community of Watkins. This permit contained a compliance schedule to meet the Escherichia coli (E. coli) limitations listed in the permit. Upon request by Mark J. Fincel, P.E. of Garden & Associates, Ltd., who was retained by the PWA to design its wastewater treatment system, this compliance schedule was amended on December 20, 2010. The compliance schedule contained in the NPDES permit is below:

1. Submit a Facility Plan by February 6, 2011;
2. Submit plans and specifications by November 6, 2011;
3. Start construction of wastewater treatment improvements by May 6, 2012; and
4. Achieve compliance with all final limits by October 6, 2012.

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
Poweshiek Water Association

3. On May 5, 2011, Mr. Fincel submitted a request to the Department requesting that the date by which the Facility Plan must be submitted to the Department be amended to July 6, 2011.
4. On May 13, 2011, the Department sent a letter to Mr. Fincel denying this request.
5. On June 27, 2011, Mr. Fincel submitted a Preliminary Engineering Report to the Department. 6. On May 16, 2011, the Department sent PWA an inspection report and a Notice of Violation (NOV) following an inspection conducted by Don Chase, an Environmental Specialist with the Department. This inspection report noted the following:
  - a. The 30 day and 7 day average of carbonaceous biochemical oxygen demand five day (CBOD<sub>5</sub>) effluent limitations are 25 mg/L and 40 mg/L respectively. During the reporting period from November 1, 2009, through March 31, 2011, the facility was out of compliance with the effluent limitations 1 time for the 7 day average and 4 times for the 30 day average. Further, 24 hour composite sampling must be conducted as required in the Monitoring and Reporting Requirements listed on page 5 of PWA's NPDES permit.
  - b. The NPDES permit contains a compliance schedule for making improvements to comply with the E. coli limitations listed on Page 3 of its NPDES permit. A Facility Plan was due to the Department February 6, 2011. A request for extension of this date was submitted to the Department but the request was denied. The Facility Plan must be submitted to the Department when completed;
  - c. PWA must continue updating the sludge management plan as required by 567 IAC chapter 67; and
  - d. 24 hour composite samples must be collected for influent and effluent samples as identified in the NPDES permit.
7. On June 8, 2012, the Facility Plan was approved by the Department and a construction permit for the proposed wastewater treatment system was issued by the Department. The construction permit approved construction of a wastewater treatment system which will use two in-line ultra violet (UV) disinfection units operating in series. Both units will be sized to disinfect the design flow for the system, providing redundancy for repair and replacement, if needed.
8. On September 14, 2012, PWA requested an extension to the final compliance date of October 6, 2012, and proposed May 15, 2013, as an alternative compliance date.
9. On October 26, 2012, the Department sent PWA a letter informing it that the Department cannot extend any of the compliance dates listed in its NPDES permit.

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
Poweshiek Water Association**

10. On April 1, 2013, the Department received an e-mail from PWA indicating that the construction of the UV system was completed and that it was operating as designed. Therefore, PWA has completed the tasks set forth in the compliance schedule contained in its NPDES permit, although not in accordance with the timeframes of the permit.

**IV. CONCLUSIONS OF LAW**

1. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of waste disposal systems. The Commission has done so at 567 IAC chapters 60-64. Subrule 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of a permit. The above stated facts show noncompliance with this provision.

2. Iowa Code section 455B.186 and 567 IAC 62.1(1) prohibits the discharge of pollutants into waters of the State, except for adequately treated pollutants discharged pursuant to a permit from the Department. Because the discharges referenced herein were in violation of PWA's permit, the foregoing facts establish that these provisions have been violated.

**V. ORDER**

THEREFORE, the Department orders and PWA agrees to comply with the following provisions in order to cease, abate, and redress the above-cited violations:

1. PWA shall comply with its NPDES permit; and
2. PWA shall pay a penalty in the amount of \$3,500.00 within 30 days of the Director of the Department signing this order.

**VI. PENALTY**

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision. In addition, Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to these rules the Department has determined that the most effective and efficient

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
Poweshiek Water Association

means of addressing the above-cited violations is the issuance of an order with the assessment of penalties.

2. **Economic Benefit:** Cost avoided and costs delayed are to be considered when assessing economic benefit. PWA has delayed the cost of installing two in-line UV disinfection units operating in series which are estimated to cost approximately \$67,500.00. In delaying this expense the money was available to be used for other purposes. Thus, it is reasonable to calculate that approximately \$1,000.00 has been saved. Therefore, that amount is assessed for this factor.

3. **Gravity of the Violation:** Failure to meet the effluent limits established in PWA's NPDES permit has allowed pollutants to enter Prairie Creek and ultimately the Cedar River. This has contributed to the degradation of the creek's overall water quality. Degraded water quality harms aquatic life, and prevents the attainment of state water quality goals. In addition, the compliance schedule contained within PWA's NPDES permit was not complied with. The NPDES permit is the backbone of the wastewater regulatory program. Thus, failure to comply with the permit threatens the integrity of the regulatory program. Therefore, \$1,000.00 is assessed for this factor.

4. **Culpability:** PWA is aware of the discharge limits and compliance schedule set forth in its NPDES permit. Nevertheless, the terms of the permit were not complied with. Moreover, PWA requested amendments to the compliance schedule contained in its NPDES permit and these requests were denied by the Department. Consequently, PWA had actual knowledge that it was not in compliance with its permit. For these reasons, \$1,500.00 is assessed for this factor.

## VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.175 and 561 IAC 7.4(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This order is entered into knowingly by and with the consent of PWA. By signature to this order, all rights to appeal this order are waived.

## VIII. NONCOMPLIANCE

Compliance with section V of this order constitutes full satisfaction of all requirements pertaining to the violations described in this order. Failure to comply with this order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
Poweshiek Water Association

  
Poweshiek Water Association,

Dated this 26<sup>th</sup> day of

February, 2013. 2014 <sup>CAE</sup>

Chuck Gipp  
Chuck Gipp, Director Iowa Department of Natural Resources

Dated this 4<sup>th</sup> day of

March, 2014.

Field Office 1, Carrie Schoenebaum; Sue Miller, I.B. 2. (b), I.C.1,6 (b).